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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,538	07/29/2003	Martin Phipps	1:130-005	9251

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EXAMINER

TSO, LAURA K

ART UNIT PAPER NUMBER

2875

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/630,538

Applicant(s)

PHIPPS ET AL.

Examiner

laura tso

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5,9-11,13-16 and 20 is/are rejected.
- 7) ☒ Claim(s) 6-8,12 and 17-19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The disclosure should be carefully reviewed to ensure that any and all grammatical, idiomatic, and spelling or other minor errors are corrected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Zeller (5,154,483). Zeller discloses a light comprising a body [12] having a hollow core holding a power source [column 3, line 67], an elongated flexible branch [14] attached at

a first end to the body, illuminating means [column 4, line 3] mounted to the second end of the branch, an electrical circuit [inherent] and a switch [24].

Claims 1 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Klaitman (6,502,957). Klaitman discloses a light comprising a body [120] having a hollow core holding a power source [power cord: column 4, line 39], a plurality of elongated flexible branches [212] attached at a first end to the body and spaced around the periphery of deck [110], illuminating means [216] mounted to the second end of the branch, an electrical circuit [inherent] and a switch [plugging and unplugging the cord].

Claim Rejections - 35 USC § 103

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2875

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zeller (5,154,483). Zeller discloses the branch comprises flexible material that may be deformed to a bent position and retains the bent position [column 4, line 3-8]. The body of Zeller includes a slot [28] formed therein for receiving a tab [14] proximate the second end of the flexible branch and openings [22].

Zeller does not disclose that the illumination means is an LED. However, LEDs are well known and widely used in the art and have the advantages of being inexpensive, long lasting and using little power. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an LED in the device of Zeller in order to make an inexpensive product which will be power-wise efficient and long lasting.

Claims 2, 3, 9, 11, 13-16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klaitman (6,502,957). Klaitman discloses the branch comprises flexible plastic [column 4, line 50] material that may be deformed to a bent position and retains the bent position.

Klaitman does not disclose that the illumination means are LEDs covered by a lens. However, LEDs are well known and widely used in the art and have the advantages of being inexpensive, long lasting and using little power. Thus, it would

have been obvious to one of ordinary skill in the art at the time the invention was made to use LEDs in the device of Klaitman in order to make an inexpensive produce which will be power-wise efficient and long lasting. It is well known to use a lens to protect a light source. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use lenses to cover the LEDs in the device of Klaitman in order to protect the light sources.

Allowable Subject Matter

Claims 6-8, 12 and 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior art fails to show or suggest a light comprising a body having a hollow core holding a power source, a plurality of elongated flexible branches attached at a first end to the body and spaced around the periphery of the body, illuminating means mounted to the second end of the branch, an electrical circuit and a switch wherein the switch is contained in a recess formed in the body base member [note claims 6, 7 and 17-19].

Prior art fails to show or suggest a light comprising a body having a hollow core holding a power source, a plurality of elongated flexible branches attached at a first end to the body and spaced around the periphery of the body, illuminating means mounted to the second end of the branch, an electrical circuit and a switch wherein the switch is configured for a low and high illumination setting [note claims 8 and 12].

Conclusion

Any inquiry concerning this communication should be directed to the Examiner at the below-listed number.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Sandra O'Shea, can be reached on 571 272 2378.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 571 272 2800, Monday-Friday, 830am to 5:00pm, EST.

By:



LAURA TSO
Primary Examiner
571 272 2385